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Total Number of Pages in This Submission

2

Application Number	10/821,548
Filing Date	04/09/2004
First Named Inventor	Robert Harold Bateman
Art Unit	2881
Examiner Name	Unknown
Attorney Docket Number	AE-MM-11 (MST-1237 US2)

ENCLOSURES (Check all that apply)

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Firm Name	WATERS CORPORATION		
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Printed name	Anthony J. Janiuk		
Date	October , 2005	Reg. No.	29,809

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In the United States Patent and Trademark Office

Inventor: Robert Harold Bateman

Attorney Docket Number: MST-1237

Serial Number: 10/821,548

Filed: April 9, 2004

Examiner: Bernard E. Souw

Titled: Mass Spectrometer

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Response to Office Action

Dear Sir:

In response to an office action bearing a mailing date of December 13, 2005, Applicant makes the following response. Applicant respectfully the present response is timely; however, in the event Applicant is in error in this regard Applicant has provisionally asked for an extension of time in the Transmittal Letter which is filed concurrently herewith.

I. Summary of the Office Action.

In the Office Action bearing a mailing date of December 13, 2005, the Examiner has made a demand for restriction under 35 U.S.C. Section 121. The Examiner contends that the present application is directed to, not one, but two inventions defined by three groups of claims. The Examiner suggests a first group of claims (Group I), claims 1-58 and 63-120, is drawn to a mass spectrometry method, classified in class 250 subclass 282. The Examiner suggests a second group of claims (Group II), claims 59-62, and 121-124 is directed to a mass spectrometer with an ion source also classified in class 250, but in a different subclass, subclass 285-300.

The Examiner acknowledges that the inventions of Group I and Group II are related as a combination and a sub-combination. However, the Examiner argues that the inventions of each Group are distinct from each other because the combination as claimed does not require the particulars of the sub-combination as claimed for patentability. The Examiner contends that the method of Group I claims can be performed with ion sources other than the ion sources recited in Group II claims.

Applicant will discuss the restriction requirement in the discussion which follows.

II. Discussion

A. The Inventions Are Not Patentably Distinct.

Reconsideration of the present restriction requirement is respectfully requested. Applicant makes the provisional election with traverse to prosecute the inventions of the Group I claims. Applicant respectfully submits the present restriction requirement is improper. However, in the event the Examiner maintains or makes final the restriction requirement, Applicant shall cancel without prejudice non-elected claims.

Applicant respectfully submits the inventions are sufficiently related as to define a single inventive concept. The inventions all fall within the same class and are described by the Examiner as relating to different subclasses only. However, the classes and subclasses are set by the Office for the convenience of searching and are not significant evidence distinctiveness. It is not unusual for claims to be searched in more than one subclass. And, indeed, Applicant encourages the Examiner to perform the most comprehensive search possible, including multiple subclasses.

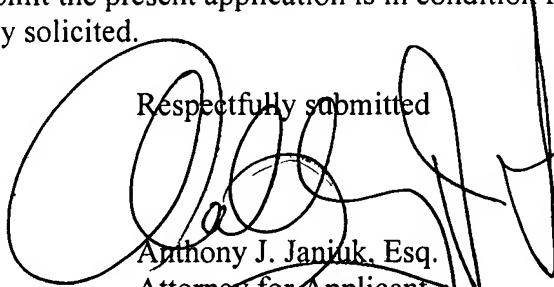
Applicant notes that the "alternative" utilities and purposes to which the Examiner refers, "ion implant systems," find no support in the present application. Indeed, Applicant admits to being confused as to what the Examiner means by an "ion implant system." Applicant respectfully submits the present inventions of Group I or II are not directed to such an "ion implant system."

In the present case, restriction is clearly not proper. The inventions are clearly related and maintaining all the present claims 1-124 in the present application does not pose an undue burden on the Examiner.

Applicant respectfully submits the present application can be expeditiously examined without restriction. The present inventions define a single inventive concept and unity.

III. Conclusion

Applicants respectfully submit the present application is in condition for allowance which action is earnestly solicited.

Respectfully submitted

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Date: _____